

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY APRIL 14, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2335

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to repeal Sections 19830, 19831, and 19832 of, and to repeal and add Section 19825 of, the Health and Safety Code, relating to building permits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2335, as amended, Nakanishi. Building permits.

Existing law, in separate provisions, requires every city or county that necessitates the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure, at a minimum, to have the owner of the building or structure complete specific forms and declarations that identify the property and any agents or contractors performing the work, if applicable, and declaring the project complies with various laws. Existing law also requires the city or county to provide notice to the owner of the property of the legal implications of construction on the property.

This bill would repeal those separate provisions and create a single provision that combines and modifies the existing forms, declarations, and notice to the property owner and expands the acknowledgments property owners are required to make.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19825 of the Health and Safety Code is
2 repealed.

3 SEC. 2. Section 19825 is added to the Health and Safety Code,
4 to read:

5 19825. (a) Every city, county, or city and county, whether
6 general law or chartered, that requires the issuance of a permit as
7 a condition precedent to the construction, alteration, improvement,
8 demolition, or repair of any building or structure, shall require the
9 execution of a permit application, in substantially the same form
10 set forth under this subdivision, and require any individual who
11 executes the Owner-Builder Declaration to present documentation
12 sufficient to identify the property owner and, as necessary, verify
13 the signature of the property owner. A city, county, or city and
14 county may require additional information on the permit
15 application.

16
17
18 PERMIT APPLICATION
19 BUILDING PROJECT IDENTIFICATION

20 Applicant's Mailing Address _____
21 _____
22 _____
23 Property Location or Address _____
24 _____
25 Property Owner's Name _____
26 Property Owner's Telephone No. _____
27 Licensed Design Professional (Architect or
28 Engineer) in charge of the project _____
29 Mailing Address of Licensed Design
30 Professional _____
31 _____
32 License No. _____

33
34 LICENSED CONTRACTOR'S DECLARATION

35 I hereby affirm under penalty of perjury that I am licensed under provisions
36 of Chapter 9 (commencing with Section 7000) of Division 3 of the Business
37 and Professions Code, and my license is in full force and effect.
38 License Class _____ License No. _____

1 Date _____ Contractor Signature _____

2
3 OWNER-BUILDER DECLARATION

4 I hereby affirm under penalty of perjury that I am exempt from the
5 Contractors' State License Law for the reason(s) indicated below by the
6 checkmark(s) I have placed next to the applicable item(s) (Section 7031.5,
7 Business and Professions Code: Any city or county that requires a permit to
8 construct, alter, improve, demolish, or repair any structure, prior to its issuance,
9 also requires the applicant for the permit to file a signed statement that he or
10 she is licensed pursuant to the provisions of the Contractors' State License
11 Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business
12 and Professions Code) or that he or she is exempt from licensure and the basis
13 for the alleged exemption. Any violation of Section 7031.5 by any applicant
14 for a permit subjects the applicant to a civil penalty of not more than five
15 hundred dollars (\$500).):

16 I, as owner of the property, or my employees with wages as their sole
17 compensation, will do all of or portions of the work, and the structure
18 is not intended or offered for sale (Section 7044, Business and Professions
19 Code: The Contractors' State License Law does not apply to an owner of
20 property who, through employees' or personal effort, builds or improves the
21 property, provided that the improvements are not intended or offered for sale.
22 If, however, the building or improvement is sold within one year of completion,
23 the Owner-Builder will have the burden of proving that it was not built or
24 improved for the purpose of sale.).

25
26 I, as owner of the property, am exclusively contracting with licensed
27 Contractors to construct the project (Section 7044, Business and Professions
28 Code: The Contractors' State License Law does not apply to an owner of
29 property who builds or improves thereon, and who contracts for the projects
30 with a licensed Contractor pursuant to the Contractors' State License Law.).

31
32 I am exempt from licensure under the Contractors' State License Law for
33 the following reason:

34 _____

35
36 By my signature below I acknowledge that, except for my personal residence
37 in which I must have resided for at least one year prior to completion of the
38 improvements covered by this permit, I cannot legally sell a structure that I
39 have built as an owner-builder if it has not been constructed in its entirety by
40 licensed contractors. I understand that a copy of the applicable law, Section

1 7044 of the Business and Professions Code, is available upon request when
2 this application is submitted or at the following Web site:
3 <http://www.leginfo.ca.gov/calaw.html>.

4 Date _____

5
6 Signature of Property Owner or Authorized Agent

7
8 _____

9
10 WORKERS' COMPENSATION DECLARATION

11 WARNING: FAILURE TO SECURE WORKERS' COMPENSATION
12 COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER
13 TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED
14 THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF
15 COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706
16 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

17
18 I hereby affirm under penalty of perjury one of the following declarations:

19 ____ I have and will maintain a certificate of consent to self-insure for workers'
20 compensation, issued by the Director of Industrial Relations as provided for
21 by Section 3700 of the Labor Code, for the performance of the work for which
22 this permit is issued.

23 Policy No. _____

24
25 ____ I have and will maintain workers' compensation insurance, as required
26 by Section 3700 of the Labor Code, for the performance of the work for which
27 this permit is issued. My workers' compensation insurance carrier and policy
28 number are:

29
30 Carrier _____ Policy Number _____ Expiration Date _____

31 Name of Agent _____ Phone # _____

32
33
34 ____ I certify that, in the performance of the work for which this permit is
35 issued, I shall not employ any person in any manner so as to become subject
36 to the workers' compensation laws of California, and agree that, if I should
37 become subject to the workers' compensation provisions of Section 3700 of
38 the Labor Code, I shall forthwith comply with those provisions.

1 _____
 2 Signature of Applicant _____ Date

3
4 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

5
6 I hereby affirm under penalty of perjury that there is a construction lending
7 agency for the performance of the work for which this permit is issued (Section
8 3097, Civil Code).

9 Lender's Name _____

10
11 Lender's Address _____

12
13 By my signature below, I certify to each of the following:
 14 I am the property owner or authorized to act on the property owner's behalf.
 15 I have read this application and the information I have provided is correct.
 16 I agree to comply with all applicable city and county ordinances and state laws
 17 relating to building construction.
 18 I authorize representatives of this city or county to enter the above-identified
 19 property for inspection purposes.
 20 Signature of Property Owner or Authorized Agent _____
 21 Date _____

22
23
24 (b) When the Permit Application and the Owner-Builder
25 Declaration have been executed by a person other than the property
26 owner, prior to issuing the permit, the following shall be completed
27 *by the property owner* and returned to the agency responsible for
28 issuing the permit:

29
30 AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER'S
31 BEHALF

32
33
34 ~~Excluding the completion of the Notice to Property Owner requirements, for~~
 35 ~~which I understand I am personally responsible, I hereby authorize the~~
 36 ~~Excluding the Notice to Property Owner, the execution of which I understand~~
 37 ~~is my personal responsibility, I hereby authorize the~~ following person(s) to
 38 act as my agent(s) to apply for, sign, and file the documents necessary to obtain
 39 an Owner-Builder Permit for my project.

1
 2 Scope of Construction Project (or Description of Work):
 3 _____
 4 Project Location or Address: _____
 5 Name of Authorized
 6 Agent: _____
 7
 8 Address of Authorized
 9 Agent: _____
 10
 11 Phone Number of Authorized
 12 Agent: _____
 13
 14

15 I declare under penalty of perjury that I am the property owner for the address
 16 listed above and I personally filled out the above information and certify its
 17 accuracy.

18 Property Owner's Signature: _____ Date: _____
 19

20 Note: A copy of the owner's driver's license, form notarization, or other
 21 verification acceptable to the agency is required to be presented when the
 22 permit is issued to verify the property owner's signature.
 23

24 ~~(e) When any portion of the permit application required pursuant~~
 25 ~~to subdivision (a) is executed by the property owner, a~~
 26 *(c) When the Owner-Builder Declaration required under*
 27 *subdivision (a) is executed, a Notice to Property Owner also shall*
 28 *be executed by the property owner in substantially the same form*
 29 *set forth under this section. The Notice to Property Owner shall*
 30 *appear on the official letterhead of the issuer and shall be provided*
 31 *to the applicant by one of the following methods chosen by the*
 32 *permitting authority: regular mail, electronic format, or given*
 33 *directly to the applicant at the time the application for the permit*
 34 *is made. Except as otherwise provided, the Notice to Property*
 35 *Owner pursuant to this section shall be completed and signed by*
 36 *the property owner and returned prior to issuance of the permit.*
 37 *An agent of the owner shall not execute this notice unless the*
 38 *property owner obtains the prior approval of the permitting*
 39 *authority. A permit shall not be issued unless the property owner*
 40 *complies with this section.*

NOTICE TO PROPERTY OWNER

Dear Property Owner:

An application for a building permit has been submitted in your name listing yourself as the builder of the property improvements specified at

_____.

We are providing you with an Owner-Builder Acknowledgment and Information Verification Form to make you aware of your responsibilities and possible risk you may incur by having this permit issued in your name as the Owner-Builder.

We will not issue a building permit until you have read, initialed your understanding of each provision, signed, and returned this form to us at our official address indicated. An agent of the owner cannot execute this notice unless you, the property owner, obtain the prior approval of the permitting authority.

OWNER’S ACKNOWLEDGMENT AND VERIFICATION OF INFORMATION

DIRECTIONS: Read and initial each statement below to signify you understand or verify this information.

___ 1. I understand a frequent practice of unlicensed persons is to have the property owner obtain an “Owner-Builder” building permit that erroneously implies that the property owner is providing his or her own labor and material personally. I, *as an Owner-Builder*, may be held liable and subject to serious financial risk for any injuries sustained by an unlicensed person and his or her employees while working on my property. My homeowner’s insurance may not provide coverage for such injuries. I will check with my insurance agent. *coverage for those injuries. I am willfully acting as an Owner-Builder and am aware of the limits of my insurance coverage for injuries to workers on my property.*

___ 2. I understand building permits are not required to be signed by property owners unless they are *responsible* for the construction and are not hiring a licensed Contractor to assume this responsibility.

___ 3. I understand as an “Owner-Builder” I am the responsible party of record on the permit. I understand if someone else will actually be responsible for performing the construction, I may protect myself from potential financial risk on the permit. *I understand that I may protect myself from potential financial*

1 *risk* by hiring a licensed Contractor and having the permit filed in his or her
2 name instead of my own.
3
4 ____4. I understand Contractors are required by law to be licensed and bonded
5 in California and to list their license numbers on permits and contracts.
6
7 ____5. I understand if I employ or otherwise engage any persons, other than
8 California licensed Contractors, and the total value of my construction is at
9 least five hundred dollars (\$500), including labor and materials, I may be
10 considered an “employer” under state and federal law.
11
12 ____6. I understand if I am considered an “employer” under state and federal
13 law, I must register with the state and federal government, withhold payroll
14 taxes, provide workers’ compensation disability insurance, and contribute to
15 unemployment compensation for each “employee.” I also understand my failure
16 to abide by these laws may subject me to serious financial risk.
17
18 ____7. I understand under California Contractors’ State License Law, an
19 Owner-Builder who builds single-family residential structures cannot legally
20 build them with the intent to offer them for sale, unless *all* work is performed
21 by licensed subcontractors and the number of structures does not exceed four
22 within any calendar year, or all of the work is performed under contract with
23 a licensed general building Contractor.
24
25 ____8. I understand as an Owner-Builder if I sell the property for which this
26 permit is issued, I may be held liable for any financial or personal injuries
27 sustained by any subsequent owner(s) that result from any latent construction
28 defects in the workmanship or materials.
29
30 ____9. I understand I may obtain more information regarding my obligations
31 as an “employer” from the Internal Revenue Service, the United States Small
32 Business Administration, the California Department of Benefit Payments, and
33 the California Division of Industrial Accidents. I also understand I may contact
34 the California Contractors’ State License Board (CSLB) at 1-800-321-CSLB
35 (2752) or www.cslb.ca.gov for more information about licensed contractors.
36
37 ____10. I am aware of and consent to an Owner-Builder building permit applied
38 ~~for in my name as the party legally responsible for proposed construction~~
39 ~~activity, including legal and financial liability, at the following address: for in~~

1 *my name, and understand that I am the party legally and financially responsible*
2 *for proposed construction activity at the following address:*

3 _____
4

5 ____ 11. I agree that, as the party legally *and financially* responsible for this
6 proposed construction activity, ~~including legal and financial liability~~, I will
7 abide by all ~~applicable laws and requirements governing Owner-Contractors~~
8 ~~or Owner-Employers~~: *applicable laws and requirements that govern*
9 *Owner-Builders as well as employers.*

10
11 ____ 12. I agree to notify the issuer of this form immediately of any additions,
12 deletions, or changes to any of the information I have provided on this form.

13
14 Licensed contractors are regulated by laws designed to protect the public. If
15 you contract with someone who does not have a license, the Contractors' State
16 License Board may be unable to assist you with any financial loss you may
17 sustain as a result of a complaint. Your only remedy against unlicensed
18 Contractors may be in civil court. It is also important for you to understand
19 that if an unlicensed Contractor or employee of that individual or firm is injured
20 while working on your property, you may be held liable for damages. If you
21 obtain a permit as Owner-Builder and wish to hire Contractors, you will be
22 responsible for verifying whether or not those Contractors are properly licensed
23 and the status of their workers' compensation insurance coverage.

24
25 Before a building permit can be issued, this form must be completed and signed
26 by the property owner and returned to the agency responsible for issuing the
27 permit.

28 Note: A copy of the property owner's driver's license, form notarization, or
29 other verification acceptable to the agency is required to be presented when
30 the permit is issued to verify the property owner's signature.

31
32 Signature of property owner _____ Date: _____

33
34 SEC. 3. Section 19830 of the Health and Safety Code is
35 repealed.

36 SEC. 4. Section 19831 of the Health and Safety Code is
37 repealed.

1 SEC. 5. Section 19832 of the Health and Safety Code is
2 repealed.

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